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UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF WASHINGTON

In Re:)
) No. 06-03258-FLK7
EDWIN TROY HAWKINS)
) FINDINGS OF FACT AND
) CONCLUSIONS OF LAW GRANTING
Debtor,) MOTION FOR SUMMARY JUDGMENT
) ON YANDELLS' CLAIM

THIS MATTER having come on for hearing on September 13, 2007, before the Honorable Frank L. Kurtz on Creditor Pam and Ron Yandell's Motion for Summary Judgment (Docket No. 84) in connection with the Debtor's Motion Objecting to Proof of Claim Registry No. 1 filed by the Yandells (Docket No. 65). Present at the hearing were: Jeffrey Earl, representing the trustee; Charles Steinberg, representing Edwin Troy Hawkins; Michael Arch, representing Ron and Pam Yandell; Debtor Edwin Troy Hawkins; Ron and Pam Yandell; and Tracy Stoneman. The Court considered the following pleadings: Debtor's Notice and Motion Objecting to Proof of Claim Registry No. 1 Filed by Ron and Pamela Yandell and Notice Thereof (Docket No. 65); Credit Yandells' Objection to Debtor's Objection to Claim (Docket

1 No. 67); Objection to Debtors Notice of and Motion Objecting to Proof of Claim Registry No. 1
2 Filed by Ron and Pamela Yandell and Notice Thereof (Docket No. 72); Declaration of Michael
3 A Arch in Support of Creditor Yandell's Objection to Debtor's Objection to their Claim (Docket
4 No. 74); Declaration of Trustee Jeffrey Earl re: Yandells' Claim (Docket No. 76); Yandells'
5 Memorandum of Law Supporting Objection to Claim Disallowance (Docket No. 78);
6 Declaration of Tracy Pride Stoneman in Support of Creditor Yandell's Objection to Debtor's
7 Objection to Their Claim (Docket No. 79); Scheduling Order re: Summary Judgment & Trial re:
8 Ronald Yandell Claim (Docket No. 81); Yandells' Motion for Summary Judgment on Debtor's
9 Objection to Their Claim (Docket No. 84); Creditor Yandells' Memorandum of Law in Support
10 of Their Motion for Summary Judgment on Claim Disallowance (Docket No. 85); Debtor Edwin
11 Troy Hawkins' Statement of Material Facts (Docket No. 91); Amended-Debtor Edwin Troy
12 Hawkins' Statement of Material Facts (Docket No. 93); Debtor Edwin Troy Hawkins' Statement
13 of Disputed Facts re: Yandell's Motion for Summary Judgment (Docket No. 92); Debtor Edwin
14 Troy Hawkins' Cross Motion for Summary Judgment re: The One-Satisfaction Rule (Docket No.
15 90); Debtor Edwin Troy Hawkins' Memorandum of Authorities in Support of Summary
16 Judgment Disallowing Claim of Ron and Pam Yandell (Docket No. 89); Declaration of Edwin
17 Troy Hawkins re: Objection to Proof of Claim of Ronald and Pam Yandell (Docket No. 88);
18 Debtor Edwin Troy Hawkins' Responsive Memorandum Regarding Yandell's Motion for
19 Summary Judgment (Docket No. 87); Yandells' Memorandum of Law in Reply to Debtor's (1)
20 Response to Summary Judgment; and (2) Cross-Motion for Summary Judgment (Docket No.
21 94); Debtor Edwin Troy Hawkins' Reply Brief (Docket No. 96); and the oral argument of
22 counsel. The Court enters the following findings of fact which are either admitted or undisputed
23 in this case.
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Findings of Fact

1. Debtor Edwin Troy Hawkins filed for Chapter 7 relief on December 18, 2006.

2. Ron and Pamela Yandell filed a Proof of Claim in the amount of \$1,084,114.53 dated January 10, 2007.

3. The Yandells' Claim is based on a Default Judgment filed in the US District Court (Northern District of Texas) on April 26, 2006. The Default Judgment resulted from Yandell's Motion to Confirm Arbitration Award served on the Debtor's spouse Britt Hawkins on January 16, 2006.

4. At the conclusion of three (3) days of hearings, the New York Stock Exchange (Dallas Panel) ("NYSE") entered an Arbitration Award against the Debtor and in favor of the Yandells in the amount of \$990,000 (excluding Forum fees in the amount of \$4,950) on November 4, 2005. The NYSE Arbitration proceeded in accordance with the terms of the agreement between the Yandells, Debtor and First Union Securities, Inc dated November 4 and 9, 1997.

5. Prior to the NYSE Arbitration Award, the Yandells entered into a Settlement Agreement with the Debtor's former employer Wachovia Securities, Inc f/k/a First Union Securities, Inc dated January 31, 2004 and February 3, 2004. The Yandells received the sum of Two Hundred Seventy Seven Thousand Five Hundred Dollars (\$277,500) from Wachovia and expressly reserved their claims against the Debtor under the Settlement Agreement.

6. The Yandells filed a Petition to Register the Default Judgment in the Superior Court for Chelan County, Washington on May 9, 2006. This Petition was served on the Debtor's spouse Britt Hawkins by certified mail dated May 12, 2006.

7. Debtor failed to respond in any manner to the Yandells' Motion to Confirm Arbitration Award or Petition to Register the Default Judgment after service of the same on the Debtor's spouse.

Based upon these findings, the Court enters the finding:

Conclusions of Law

1. Texas law applies to the Settlement Agreement between the Yandells and Wachovia f/k/a First Union Securities.

2. The Settlement Agreement between the Yandells and Wachovia f/k/a First Union Securities did not release the Yandells' reserved claims against the Debtor under the Texas Settlement Rule.

3. The Settlement Agreement between the Yandells and Wachovia f/k/a First Union Securities did not bar the Yandell's claims against the Debtor as adjudicated by the NYSE Arbitration Panel.

4. Debtor's challenge to the NYSE Arbitration Award in favor of the Yandells against Debtor is time barred under the Federal Arbitration Act at 9 USC § 2 et. seq.

5. The NYSE Arbitration Award in favor of the Yandells against Debtor is not subject to collateral attack by the Debtor in this case under FRCP 59 and 60.

6. Debtor Edwin Troy Hawkins is entitled to a credit in the amount of \$277,500 on the Yandells' Default Judgment in the amount of \$991,873, from the date of entry of said Default Judgment on April 26, 2006, resulting in the sum of **\$714,373**, together with interest thereon at the rate of 7.5% per annum from May 26, 2006, to the date of filing in this case on December 18, 2006, in the amount of \$30,238.53, resulting in a Claim in the amount of \$744,611.53.

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5 By: Michael A. Arch
6 Michael A Arch, WSBA #8056
7 Attorney for Creditor Yandells

8 THE STEINBERG LAW FIRM
9

10 By: _____
11 Charles Steinberg, WSBA #23980
12 Attorney for Debtor Hawkins

13 EARL & EARL, INC, PS
14

15 By: _____
16 Jeffrey Earl, WSBA #12501
17 Trustee
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Frank L. Kurtz
Bankruptcy Judge

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